

U.S. DISTRICT COURT  
N.D. OF N.Y.  
FILED

JUN 21 2010

LAWRENCE K. BAERMAN, CLERK  
ALBANY

Richard-Enrique; Ulloa  
c/o postal department 771  
Stone Ridge, New York republic

**UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF NEW YORK**

CASE # 1:10-CV-00467  
TJM/DRH

COUNTY OF ULSTER, NEW YORK )  
THE TOWN OF LLOYD, NEW YORK, )  
TOWN OF ROSENDALE, NEW YORK, )  
TOWN OF ULSTER, NEW YORK )  
DARRELL DAY, EUGENE J. RIZZO, )  
DANIEL M. MARTUSCELLO, )  
HEATHER BLUME, ANTHONY )  
KALIMERAS, KATHLEEN BURNS )  
JEFF COHEN, DAVID M. ACKERT, )  
AMY SHUMAN, ROBERT VOSPER, )  
JOSHUA CALIENDO, BEATRICE )  
HAVRANEK, EILEEN B. KATASKY )  
NINA POSUPACK, NEREIDA VEYTIA )

MOTION TO DISMISS

Plaintiffs,

-against-

RICHARD ENRIQUE ULLOA, SARA )  
ULLOA, JEFFREY-CHARLES )  
BURFEINDT, ED-GEORGE )  
PARENTEAU, RAYMOND )  
TOMKINS, KATHERINE A. CAIRO )  
DAVIS, KATHY STEINHILBER, )

Defendants

**MOTION TO DISMISS**

1 Comes now Richard-Enrique; Ulloa, by special visitation and not appearing  
2 generally, before this court seeking a remedy, by "The Saving to the Suitors Clause" at  
3 USC 28 -1333(1). I respectfully request the indulgence of this court as I am not schooled  
4 in law. This is provided by the precedent set by Haines vs. Kerner at 404 U.S. 519

---

5  
6 I submit this Motion to Dismiss in order to dismiss the complaint due to lack of  
7 personal jurisdiction and subject matter jurisdiction.

8 First and foremost, I must address the paper filed as an answer by JUDGE HOMER.  
9 It was never my intent and I am addressing in a Motion to Strike, to file the Statement of  
10 Issues document as an answer to this complaint, it was never my intention.

#### 11 STANDING AND JURISDICTION

12  
13 Plaintiff's attorney was provided a letter dated June 13, 2010, which was faxed,  
14 Priority Mailed and emailed, in which I requested proof that plaintiff's attorney had valid  
15 proof that he in fact was asked to represent the Plaintiff's and plaintiff's attorney was  
16 given until Friday June 18, 2010 to provide this information, so that this Motion would  
17 not be needed, and an answer could be given instead, to date Plaintiff's attorney failed to  
18 provide this information, so the Motion to Dismiss became necessary. (see Affidavit of  
19 Fact in Support for Motion to Dismiss for documentation), and

20 Plaintiff's and Plaintiff's attorney have failed to bring forth an injured party, no  
21 Plaintiff has claimed that a violation of his or her rights have been violated, or come forth  
22 with any affidavit of an injury and without an injured party the Plaintiff's have no  
23 standing, and

24  
25 As in Supreme Court case Lujan v. Defenders, 504 U.S. 555 (1992), It has been  
26 established that the irreducible constitutional minimum of standing contains three  
27 elements: **First**, the plaintiff must have suffered an "injury in fact", an invasion of the  
28

1 legally protected interest which is (a) concrete and particularized, and (b) “actual or  
2 imminent, not conjectural or hypothetical,” **Second**: there must be a casual connection  
3 between the injury and the conduct complained of – the injury has to be fairly traceable  
4 to the challenged action of the defendant, and not the result of the independent action of  
5 some third party not before the court. **Third**: it must be likely, as opposed to merely  
6 “speculative”, that the injury will be “redressed by a favorable decision.” ...Plaintiff’s  
7 have failed to show, First: that they have suffered an “injury in fact” of a legally protected  
8 interest, Second: that if an injury was suffered, that it was fairly traceable to the  
9 challenged action of the defendant and not the result of a third party (credit bureau), and  
10 Third: that the injury will likely be “redressed by a favorable decision”, which is unlikely  
11 since the third parties (credit bureau) is not part of this action. The plaintiffs DO NOT  
12 meet the constitutional minimum three elements of standing.

13 Plaintiff’s attorney JOHN W. BAILEY lacks standing to file this complaint, since no  
14 evidence was filed from ANY of the Plaintiff’s that he was provided Power of Attorney  
15 or any Declarations, Affidavit’s, signed by the plaintiff’s that authorized them as  
16 Employee’s of the corresponding corporations, or as Officers of their corresponding  
17 corporations to bring suit upon anyone, and

18 Plaintiff’s attorney JOHN W. BAILEY lacks standing to file this complaint, since no  
19 evidence was filed from the fictions, COUNTY OF ULSTER et al, TOWN OF ULSTER,  
20 et al, TOWN OF ROSENDALE et al, TOWN OF LLOYD et al, that he was given any  
21 authority to sue, that the action is permitted by their respective Charters, or by a  
22 Resolution taken by their respective Board’s or any Declarations, Affidavit’s that  
23 authorized them as Officers of the Corporation to bring suit upon anyone, and

24 The plaintiffs did not authorize the under signed attorney to proceed on their behalf  
25 and the attorney is not a party to the suit; and  
26  
27  
28

1 For those parties listed as juristic entities (artificial persona) there is no proof that the  
2 parties are authorized to bring suit so the court lacks in personam jurisdiction for those  
3 parties; and

4 There is no proof, in the complaint or by affidavit or anywhere, that Plaintiff  
5 DARRELL DAY in his/her capacity as a security guard for the private corporation,  
6 TOWN OF LLOYD et al, has the authority, or was delegated the authority to file a suit  
7 against anyone, or that he/she has been delegated by the Corporate Board, i.e. Town  
8 Board, by a resolution or delegation to bring suit against the defendant, and

9  
10 There is no proof, in the complaint or by affidavit or anywhere, that Plaintiff  
11 EUGENE J. RIZZO in his/her capacity as a corporate officer for the private corporation,  
12 TOWN OF LLOYD et al, has the authority, or was delegated the authority to file a suit  
13 against anyone, or that he/she has been delegated by the Corporate Board, i.e. Town  
14 Board, by a resolution or delegation to bring suit against the defendant, and

15 There is no proof, in the complaint or by affidavit or anywhere, that Plaintiff  
16 DANIEL M. MARTUSCELLO in his/her capacity as An assistant for the private  
17 corporation, COUNTY OF ULSTER et al, has the authority, or was delegated the  
18 authority to file a suit against anyone, or that he/she has been delegated by the Corporate  
19 Board, i.e. Town Board, or by his/her Superior, or by a resolution or delegation to bring  
20 suit against the defendant, and

21  
22 There is no proof, in the complaint or by affidavit or anywhere, that Plaintiff  
23 HEATHER BLUME in his/her capacity as a clerk for the private corporation, TOWN OF  
24 LLOYD et al, has the authority, or was delegated the authority to file a suit against  
25 anyone, or that he/she has been delegated by the Corporate Board, i.e. Town Board, by a  
26 resolution or delegation to bring suit against the defendant, and  
27  
28

1       There is no proof, in the complaint or by affidavit or anywhere, that Plaintiff  
2       ANTONY KALIMERAS in his/her capacity as a security guard for the private  
3       corporation, TOWN OF LLOYD et al, has the authority, or was delegated the authority to  
4       file a suit against anyone, or that he/she has been delegated by the Corporate Board, i.e.  
5       Town Board, by a resolution or delegation to bring suit against the defendant, and

6       There is no proof, in the complaint or by affidavit or anywhere, that Plaintiff  
7       KATHLEEN BURNS in his/her capacity as a security guard for the private corporation,  
8       TOWN OF LLOYD et al, has the authority, or was delegated the authority to file a suit  
9       against anyone, or that he/she has been delegated by the Corporate Board, i.e. Town  
10      Board, by a resolution or delegation to bring suit against the defendant, and

11      There is no proof, in the complaint or by affidavit or anywhere, that Plaintiff JEFF  
12      COHEN in his/her capacity as a security guard for the private corporation, TOWN OF  
13      LLOYD et al, has the authority, or was delegated the authority to file a suit against  
14      anyone, or that he/she has been delegated by the Corporate Board, i.e. Town Board, by a  
15      resolution or delegation to bring suit against the defendant, and

16  
17      There is no proof, in the complaint or by affidavit or anywhere, that Plaintiff DAVID  
18      M. ACKERT in his/her capacity as a chief security guard for the private corporation,  
19      TOWN OF LLOYD et al, has the authority, or was delegated the authority to file a suit  
20      against anyone, or that he/she has been delegated by the Corporate Board, i.e. Town  
21      Board, by a resolution or delegation to bring suit against the defendant, and

22  
23      There is no proof, in the complaint or by affidavit or anywhere, that Plaintiff AMY  
24      SHUMAN in his/her capacity as a clerk for the private corporation, TOWN OF LLOYD  
25      et al, has the authority, or was delegated the authority to file a suit against anyone, or that  
26      he/she has been delegated by the Corporate Board, i.e. Town Board, by a resolution or  
27      delegation to bring suit against the defendant, and  
28

1       There is no proof, in the complaint or by affidavit or anywhere, that Plaintiff  
2 ROBERT VOSPER in his/her capacity as a corporate officer [JUDGE] for the private  
3 corporation, TOWN OF ROSENDALE et al, has the authority, or was delegated the  
4 authority to file a suit against anyone, or that he/she has been delegated by the Corporate  
5 Board, i.e. Town Board, by a resolution or delegation to bring suit against the defendant,  
6 and

7       There is no proof, in the complaint or by affidavit or anywhere, that Plaintiff  
8 JOSHUA CALIENDO in his/her capacity as a security guard for the private corporation,  
9 TOWN OF ROSENDALE et al, has the authority, or was delegated the authority to file a  
10 suit against anyone, or that he/she has been delegated by the Corporate Board, i.e. Town  
11 Board, by a resolution or delegation to bring suit against the defendant, and

12       There is no proof, in the complaint or by affidavit or anywhere, that Plaintiff  
13 BEATRICE HAVRANEK in his/her capacity as a County Attorney for the private  
14 corporation, COUNTY OF ULSTER et al, has the authority, or was delegated the  
15 authority to file a suit against anyone, or that he/she has been delegated by the Corporate  
16 Board, i.e. Town Board, by a resolution or delegation to bring suit against the defendant,  
17 and

18       There is no proof, in the complaint or by affidavit or anywhere, that Plaintiff EILEEN  
19 B. KATATSKY in his/her capacity as a previous employee for the private corporation,  
20 COUNTY OF ULSTER et al, has the authority, or was delegated the authority to file a  
21 suit against anyone, or that he/she has been delegated by the Corporate Board, i.e. Town  
22 Board, by a resolution or delegation to bring suit against the defendant, and  
23

24       There is no proof, in the complaint or by affidavit or anywhere, that Plaintiff NINA  
25 POSTUPACK in his/her capacity as a clerk for the private corporation, COUNTY OF  
26 ULSTER et al, has the authority, or was delegated the authority to file a suit against  
27  
28

1 anyone, or that he/she has been delegated by the Corporate Board, i.e. Town Board, by a  
2 resolution or delegation to bring suit against the defendant, and

3  
4 There is no proof, in the complaint or by affidavit or anywhere, that Plaintiff  
5 NEREIDA VEYTIA in his/her capacity as an employee for the private corporation,  
6 COUNTY OF ULSTER et al, has the authority, or was delegated the authority to file a  
7 suit against anyone, or that he/she has been delegated by the Corporate Board, i.e. Town  
8 Board, by a resolution or delegation to bring suit against the defendant, and

9 **STATE ISSUES AND NOT A FEDERAL ISSUE**

10  
11 Plaintiffs' claims are largely related to challenging commercial liens (under the guise,  
12 pretext, sham and subterfuge of a civil RICO action), an area of law preempted by state  
13 law in that it is well settled that state law establishes the property interest of parties  
14 subject to commercial liens; and

15 The liens that I issued were issued under International Commerce under 28 U.S.C.  
16 §1333, §1337, and filed under the International Uniform Commercial Code, and are  
17 covered by 28 U.S.C. §1581, §1582, §1583, §1584 and §1585, Chapter 95 under the  
18 Court of International Trade, since the TOWNS and STATES are under the UNITED  
19 STATES corporation, it seems to me that if any counter-claims are filed they should be  
20 under the International Trade Court, and

21 The fact of the liens is a matter of state law and not subject to intervention by federal  
22 courts (courts of limited jurisdiction) and thus the court lacks subject matter jurisdiction;  
23 and  
24  
25  
26  
27  
28

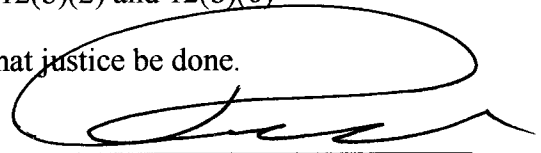
**ENTRY OF APPEARANCE REQUIRED**

Plaintiff's attorney JOHN W. BAILEY's filings never had a filing of Appearance as REQUIRED by Title 26 App Title III Rule 24 before the filing of a complaint, and

Plaintiff's attorney JOHN W. BAILEY's filings are obviously effected by Federal Rules of Civil Procedure 12(f) as redundant, immaterial, impertinent, or scandalous, see Memorandum of Law in Support Defendant's Motion to Dismiss, and Affidavit of Truth in Support for Motion to Dismiss, and

Since the Plaintiff's attorney has failed to prove and provide this court personal jurisdiction, and standing, and have failed to state a claim which relief can be granted, there is no controversy before this court and I move to have this matter dismissed with prejudice based on Federal Rules of Civil Procedure 12(b)(2) and 12(b)(6)

I pray to our Heavenly Father and not this court that justice be done.



Richard-Enrique; Ulloa

Date: June 18, 2010

State of New York }

ss

county of Ulster }

On the 18<sup>th</sup> day of June in the year 2010 before me, the undersigned, a Notary Public in and for said State, personally appeared Richard-Enrique; Ulloa, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose names(s) is (are) subscribed to the within Instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures(s) on the Instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Signature Judith S. Mayhew (seal)



## **LEGAL NOTICE**

The Certifying Notary is an independent contractor and not a party to this claim. In fact the Certifying Notary is a Federal Witness Pursuant to TITLE 18, PART I, CHAPTER 73, SEC. 1512. *Tampering with a witness, victim, or an informant.* The Certifying Notary also performs the functions of a quasi-Postal Inspector under the Homeland Security Act by being compelled to report any violations of the U.S. Postal regulations as an Officer of the Executive Department. Intimidating a Notary Public under Color of Law is a violation of Title 18, U.S. Code, Section 242, titled "Deprivation of Rights Under Color of Law," which primarily governs police misconduct investigations. This Statute makes it a crime for any person acting under the Color of Law to willfully deprive any individual residing in the United States and/or United States of America those rights protected by the Constitution and U.S. laws.

**Proof and Evidence of Service**

I, Richard-Enrique; Ulloa: *declare that I served by filing one copy of the "MOTION TO DISMISS" by "hand-delivered by private carrier-service on "USDC of Northern NY" sent by post-office-first class-mail AND OR CERTIFIED MAIL to the following:*

BAILEY, KELLEHER & JOHNSON, P.C	USDC OF NORTHERN NY
JOHN W. BAILEY	COURT CLERK
5 PINE WEST PLAZA, SUITE 507	445 Broadway, Room 509
ALBANY, NEW YORK 12205	ALBANY, NEW YORK 12207
First class mail	First class mail



Richard-Enrique; Ulloa

June 18, 2010

**NOTICE TO THE AGENT IS NOTICE TO THE PRINCIPAL NOTICE TO**  
**THE PRINCIPAL IS NOTICE TO THE AGENT**